

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

MS Word Export To Multiple PDF Files Software - Please purchase license.

DATE: February 28, 2002

TO: Orange County Zoning Administrator

FROM: Planning and Development Services Department/Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA02-0005 for Use Permit

PROPOSAL: The applicants request approval of a Use Permit to convert an existing one-story, 816 square foot barn structure into a second residential unit, as permitted by Orange County Zoning Code Section 7-9-146.5. The project site is 1.18 acres in size and zoned RE "Residential Estates"-1 (one acre minimum lot size) and OS "Open Space"/FP "Flood Plain" District.

LOCATION: In eastern Orange County, in the Modjeska Canyon area, off of Modjeska Canyon Road at 28532 Markuson Road (a private easement road). Third Supervisorial District

APPLICANT: Gary and Cindy Power, property owners

STAFF William V. Melton, Project Manager
CONTACT: Phone: (714) 834-2541 FAX: (714) 667-8344

SYNOPSIS: Current Planning Services Division review of the proposal determined that it is in conformance with Zoning Code Section 7-9-146.5 and recommends Zoning Administrator approval of PA02-0005 subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject property is 1.1 acres in size measuring approximately 167 feet wide by 285 feet deep. The property is developed with a single-family dwelling located 60 feet back from the front property line. Development of the site was approved by Site Development Permit SP86-68A. The front property line is also the centerline of Markuson Drive, which is a 40 feet wide private easement road off of Modjeska Canyon Road serving a number of homes. The front approximately one-half of the property is zoned RE "Residential Estates" with a one acre minimum lot size. The rear half of the property is vacant and is zoned OS "Open Space" with a FP "Flood plain"-2 overlay zone. Santiago Creek is at the rear of the property and the reason for the FP-2 overlay zone. No portion of the residential structure is in the FP-2 overlay.

To the west of the main dwelling is a 34 feet by 24 feet structure referred to as a barn. A common roof attaches the barn and the house. The space between the barn and the house is used as a two-car carport. The applicant proposes to convert the barn structure into a second residential unit. The proposed second residential unit includes a kitchen, living room, bathroom and one bedroom. The dwelling is currently on

an on-site private sewage disposal system. The applicant proposed to use this existing system for the second residential unit.

SURROUNDING LAND USE:

Direction	Zoning	Existing Land Use
Project Site	RE “Residential Estates”-1 (front of site) OS “Open Space” (FP-2) (rear of site)	Single-family residential
North	RE “Residential Estates”-1	Single-family residential
South	A1 “General Agricultural”	Single-family residential
East	RE “Residential Estates”-1 (front of site) OS “Open Space” (FP-2) (rear of site)	Single-family residential
West	RE “Residential Estates”-1 (front of site) OS “Open Space” (FP-2) (rear of site)	Single-family residential

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to four County Divisions and the Silverado-Modjeska Residents.

As of the writing of this staff report, no comments raising substantial issues with the project have been received from other County divisions. Building Permit Services commented that the applicant would need to provide evidence that the existing on-site sewage disposal system had capacity for the addition of the second residential unit. The Silverado-Modjeska Residents did not submit comments.

Staff did receive a comment from the property owners adjacent to the subject site to the west (Exhibit 3). They commented that they have no objections to the proposal but expressed concerns about the late work hours and works that have taken place during the demolishing of the interior of the barn structure. They requested the applicant be made aware of the permissible construction hours. In response to these comments, staff has included a condition requiring the applicant to obtain a building permit, and the hours of construction from the County Noise Ordinance.

CEQA COMPLIANCE:

The proposed project is Categorical Exempt (Class 1, repair or minor alteration of existing structures or facilities) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

Second residential units (SRU), per Zoning Code Section 7-9-146.5, are permitted in any zone permitting a single-family dwelling subject the approval of a Use Permit. However, four criteria need to be satisfied before a Use Permit for a second residential unit can be approved. These four criteria are as follows:

- 1. Accessory to a single-family dwelling.*
- 2. Cannot exceed 1,200 square feet of habitable living space if detached or 30 percent of the existing living area when attached to the main residential building.*
- 3. Cannot be located in any building setback area.*
- 4. Provide for one additional standard covered or uncovered on-site parking space.*

Staff review of the proposal determined that the proposed SRU does conform to the four criteria listed as follows:

1. The property is developed with a single-family dwelling. Therefore, the proposed SRU is accessory to a single-family dwelling and conforms to criterion number 1.
2. The plan submitted shows that proposed SRU measures 34 feet by 24 feet for a total of 816 square feet of living area. The main residence has just over 2,000 square feet of living area. The County maintains both building permit and planning procedures and policies. As far as building permits procedures is concerned, the proposed SRU (existing barn area) is an attached structure. It is considered attached because it is physically attached to the main residence by means of a roof forming a carport between these two areas.

However, for planning purposes the barn structure is considered a detached accessory structure. This is based on the fact that the structure does not share a common wall or a common footing with the main residence. Additionally, for planning purposes, for a SRU to be attached, it would need to have an internal connection to the main residence. The proposed SRU does not meet planning's accepted definition of an attached dwelling unit. Since the proposal is defined as a detached structure for planning purposes, and it has less than 1,200 square feet of living area, the proposed SRU conforms to criterion number 2.

3. The existing residence and barn structure was approved for its use and location by Site Development Permit No. SP86-68A. Since the SRU is a conversion of an existing structure with no changes to the existing footprint, the SRU conforms to the RE-1 set back standards established for this lot and criterion number 3.
4. The residence has an existing two-car garage and a two-car carport. Since only two covered parking spaces are required for the residential dwelling, one additional parking space for the SRU is available in the carport. Therefore, the additional parking space is provided and the proposed SRU conforms to criterion number 4.

Staff review of the proposal determined that the proposed SRU conforms to all criteria in Zoning Code Section 7-9-146.5 permitting such uses. The conversion of the barn structure to a SRU is interior only and has no outward change in the current appearance of the site. The structure as it relates to Zoning Code Section 7-9-146.5 is a detached accessory structure. Staff supports the proposal and makes a recommendation for approval as follows.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA02-0005 for Use Permit subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Chief
CPSD/Site Planning Section

WVM

Folder: C:\Documents and Settings\meltonw\My Documents\Use Permits\Use Permits 2002\PA02-0005 Staff 2-28 Power.doc

APPENDICES:

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

1. Applicant's Letter of Explanation
2. Comment letter received from Ken and Jill Hassett dated February 20, 2002
3. Site Photos
4. Site Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the Planning and Development Services Dept.